

PATENT COOPERATION TREATY

PCT


INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 01 SEP 2005

WIPO PCT

Applicant's or agent's file reference PC26073A		FOR FURTHER ACTION		See Form PCT/PEA/416
International application No. PCT/IB2004/003137		International filing date (day/month/year) 27.09.2004	Priority date (day/month/year) 10.10.2003	
International Patent Classification (IPC) or national classification and IPC C07D487/04, A61K31/4985, A61P25/28, A61P37/08				
Applicant PFIZER PRODUCTS INC. et al.				
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 6 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> sent to the applicant and to the International Bureau a total of sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>				
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input checked="" type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input checked="" type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>				
Date of submission of the demand 25.10.2004		Date of completion of this report 31.08.2005		
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465		Authorized Officer Härtinger, S Telephone No. +49 89 2399-		



**INTERNATIONAL PRELIMINARY REPORT
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International application No.
PCT/B2004/003137

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on. *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):*

Description, Pages

1-62 as originally filed

Claims, Numbers

1-12 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

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Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application,

☒ claims Nos. 6-8,11-12

because:

☒ the said international application, or the said claims Nos. 6-8,11-12 with respect to IA relate to the following subject matter which does not require an international preliminary examination (specify):

see separate sheet

☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):

☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.

☐ no international search report has been established for the said claims Nos.

☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:

the written form ☐ has not been furnished

☐ does not comply with the standard

the computer readable form ☐ has not been furnished

☐ does not comply with the standard

☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-*bis* of the Administrative Instructions.

☐ See separate sheet for further details

**INTERNATIONAL PRELIMINARY REPORT
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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-12
	No: Claims	
Inventive step (IS)	Yes: Claims	1-12
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-5,9-10
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

Box No. VI Certain documents cited

1. Certain published documents (Rule 70.10)

and /or

2. Non-written disclosures (Rule 70.9)

see separate sheet

**INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(SEPARATE SHEET)**

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Re Item III:

1. Claims 6-8 and claims 11-12 relate to subject-matter considered by this Authority to be covered by the provisions of Rule 67.1(iv) PCT. Consequently, no opinion will be formulated with respect to the industrial applicability of the subject-matter of these claims (Art. 34(4)(a)(I) PCT).

Re Item V:

1. The application relates to triazolopyrazinone derivatives having GSK-3 inhibitory activity. The relevant prior art has been cited in the International search report.

D1: FR-A1-2 662 163 (LIPHA) 22 November 1991 (1991-11-22)

D2: GB-A-1 235 910 (IMPERIAL CHEMICAL INDUSTRIES LTD.) 16 June 1971
(1971-06-16)

Both documents disclose triazolpyrazine derivatives having the ability to treat i.a. asthma, which is also a preferred pathology treatable by the present compounds. While the products of D1 do not comprise the possibility of a hydroxy substituted triazole ring (being equivalent to the tautomer carbonyl group depicted in the present formula I), the compounds of D2 do not foresee an amino group attached to the pyrazine ring. The present compounds, which must have both of the mentioned structural features, are therefore considered novel. The claimed subject-matter, which always relates to the compounds I in the characterising portion of the claims, has therefore met the requirements of Art. 33(2) PCT.

As can be seen from the tested product on page 62 of the present application, the claimed compounds solve the problem of providing further GSK-3 inhibitors, which are inter alia useful to treat asthma. Starting from D1 and/or D2 as the closest prior art, the skilled person, who was looking to solve the technical problem, would have to modify the 3- and/or 8-position of the triazolopyrazine ring system in order to arrive at the subject of the invention. None of the cited documents do, however, provide a clue as to the introduction of a carbonyl ring substituent, as D1 does not teach such substituent and D2 does not individualise this group. Hence, the skilled person would not be motivated to consider the presently proposed modifications as a solution to the given problem. The claimed subject-matter appears therefore

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

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to have met the requirements of Art. 33(3) PCT.

Re Item VI:

1. The international patent application WO 2004/085439 A1 (= D3) has been published on 2004-10-07, but claims priority from 2003-03-27, which earlier than the present effective filing date. As such, this document relating to tricyclic GSK-3 inhibitors is an intermediate publication, which does not form part of the state of the art as defined in the PCT, and consequently, has been disregarded from further considerations in this report.